

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JASON CENTERS,

Plaintiff

Case No: 2:23-cv-11036

HON: BERNARD A. FRIEDMAN

vs.

AMTRAK,

Defendants

DENNIS O'BRYAN (P30545)  
O'BRYAN LAW  
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DENNIS W. KLIMEK (P80214)  
HUTCHINSON CANNATELLA, P.C  
Attorneys for Defendant Amtrak  
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**ANSWER TO COMPLAINT ON BEHALF OF DEFENDANT**  
**AMTRAK**

NOW COMES the Defendant, **AMTRAK**, by and through its Attorneys **HUTCHINSON CANNATELLA P.C.** and answers Plaintiff's Complaint against it as follows:

**COMPLAINT**

1. Defendant pleads no contest that it conducts business in the eastern portion of the lower peninsula of Michigan, but is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph and, therefore, demands that Plaintiff prove same.

2. Defendant denies any violation of the Federal Employers' Liability Act (FELA) (45 USC 51, *et seq.*), but is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph and, therefore, demands that Plaintiff prove same.

3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph and, therefore, demands that Plaintiff prove same.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph and, therefore, demands that Plaintiff prove same.

5. Defendant denies the averments contained in this paragraph including subparagraphs a. – g. for the reason they are not true.

**WHEREFORE**, Defendant **AMTRAK**, by and through its Attorneys **HUTCHINSON CANNATELLA P.C.**, respectfully requests this Honorable Court dismiss Plaintiff's Complaint against it and award costs and attorney fees as provided by law.

**HUTCHINSON CANNATELLA P.C.**

By /s/ Dennis W. Klimek  
**TARA S. CANNATELLA (P67532)**  
**DENNIS W. KLIMEK (P80214)**  
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Dated: August 29, 2023

**RELIANCE UPON JURY DEMAND**

**NOW COMES** Defendant, **AMTRAK**, by and through its Attorneys **HUTCHINSON CANNATELLA P.C.**, and hereby relies upon the jury demand previously filed in the captioned cause of action.

**HUTCHINSON CANNATELLA P.C.**

By /s/ Dennis W. Klimek  
**TARA S. CANNATELLA (P67532)**  
**DENNIS W. KLIMEK (P80214)**  
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Dated: August 29, 2023

HUTCHINSON CANNATELLA P.C.  
1001 WOODWARD, SUITE 900 □ DETROIT MICHIGAN 48226 □ (313) 963-1860

**AFFIRMATIVE DEFENSES**

**NOW COMES** the Defendant **AMTRAK**, by and through its Attorneys, **HUTCHINSON CANNATELLA P.C.**, and moves this Honorable Court for Summary Disposition pursuant to MCR 2.116 for the following reasons:

1. Plaintiff has failed to state a claim upon which any relief may be granted.
2. Defendant was not engaging in commerce between states at the time of Plaintiff's alleged loss.
3. Plaintiff's actions were not in furtherance of interstate or foreign commerce.
4. Plaintiff's injuries are the result of his own actions and not of any acts of Defendant.
5. That Plaintiff's claims are not causally related to or associated with any injuries allegedly sustained as a result of the accident complained of.
6. A third party, for whom defendant is not liable, was the cause of Plaintiff's accident.
7. Plaintiff's alleged injuries are the result of a preexisting condition.
8. Plaintiff failed to mitigate his damages.
9. Plaintiff was contributorily negligent.
10. Defendant's actions were not negligent.
11. Defendant's actions did not cause or contribute to Plaintiff's alleged injuries.
12. Defendant paid money to, and Plaintiff received, a payout from insurance, a relief benefit, or an indemnity, and defendant is entitled to an offset for the amount paid.
13. Defendant reserves the right to file additional Affirmative Defenses revealed during the course of discovery.

**HUTCHINSON CANNATELLA P.C.**

By /s/ Dennis W. Klimek

**TARA S. CANNATELLA (P67532)**

**DENNIS W. KLIMEK (P80214)**

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Dated: August 29, 2023

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**CERTIFICATE OF SERVICE**

Dennis W. Klimek, being first duly sworn, deposes and says that on August 31, 2023, he served a copy of Amtrak's Answer to Complaint, Reliance on Jury Demand and Affirmative Defenses via the Eastern District of Michigan ECF filing system, which will notify the following:

**DENNIS O'BRYAN (P30545)**  
**O'BRYAN LAW**  
**Attorney for Plaintiff**  
**401 S. Old Woodward, Suite 463**  
**Birmingham, MI 48009**  
**(248) 258-6262/Fax: (248) 259-6047**  
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I declare the above statements are true to the best of my knowledge, information and belief.

**HUTCHINSON CANNATELLA P.C.**

By /s/ Dennis W. Klimek  
**TARA S. CANNATELLA (P67532)**  
**DENNIS W. KLIMEK (P80214)**  
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Dated: August 31, 2023  
Amtrak's Ans to Complaint – DWK 08-31-23

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